

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE
COMMISSION

In the Matter of:

ELAM UTILITY COMPANY D/B/A
ELAM UTILITY COMPANY, INC.
AND
WILMA B. ISON
AND ROBERT D. ISON, INDIVIDUALLY
AND AS OFFICERS OF THE UTILITY

ALLEGED VIOLATIONS OF
THE COMMISSION'S ORDER

CASE NO. 2003-00488

SETTLEMENT AGREEMENT

THIS AGREEMENT is made and entered into this 23rd day of January, 2004, by and between the STAFF OF THE PUBLIC SERVICE COMMISSION OF KENTUCKY ("Commission Staff") and ELAM UTILITY COMPANY D/B/A ELAM UTILITY COMPANY, INC. ("Elam") and Wilma B. Ison and Robert D. Ison, individually and as officers of Elam.

WITNESSETH:

WHEREAS, Elam operates a natural gas distribution system in Morgan and Wolfe Counties, Kentucky and is subject to Commission jurisdiction pursuant to KRS 278.040; and

WHEREAS, Elam's corporate officers are Wilma B. Ison, President and Robert D. Ison, Vice President; and

WHEREAS, on December 24, 2003, an Order was issued to Elam and Wilma B. Ison and Robert D. Ison, individually and as officers of Elam, requiring each of them to show cause why each should not be assessed penalties pursuant to KRS 278.990 for

willful violations of the Commission's Order dated October 24, 2003, and as amended by an Order dated November 24, 2003; and

WHEREAS, An informal conference was held on January 23, 2004 between the parties and Commission Staff for the purpose of discussing the issues and of entering into a Settlement Agreement through compromise to settle the proceeding herein; and

WHEREAS, at the informal conference Elam agreed to file its Gas Cost Adjustment ("GCA") on or before January 30, 2004. Elam also agreed to timely file its GCA under the terms of its tariff on a quarterly basis, the next GCA to be filed on March 1, 2003; and

WHEREAS, Elam tendered for filing at the conference its written evidence of payment of accrued customer interest. Upon examination of the document, Staff found that additional information was necessary, and Elam agreed to file same with the Commission Staff on or before January 30, 2004; and

WHEREAS, Elam stated that the bank statements and general ledger were not filed by the 20th of the month as directed because of incomplete entries due to late gas bills from its suppliers. The statements have been filed with the Commission. Elam requested that the filing date of the ledger and bank statements be extended to the 30th of each month, and Staff agreed to so recommend to the Commission.

NOW, THEREFORE, Elam, Wilma B. Ison, Robert D. Ison, and Commission Staff agree that:

1. Wilma B. Ison and Elam are in willful violation of Commission's Orders as follows:

- a. Failure to file a GCA by December 1, 2003;
- b. Failure to submit written evidence on or before January 10, 2004 that Elam has paid all accrued interest on its customer deposits (from the last interest payment date); and

- c. Failure to file by the 20th of every month the monthly general ledger and copies of its bank statements for the preceding month.
 2. Robert D. Ison is in violation of Commission's Orders as follows:
 - a. Failure to file a GCA by December 1, 2003;
 - b. Failure to submit written evidence on or before January 10, 2004 that Elam has paid all accrued interest on its customer deposits (from the last interest payment date); and
 - c. Failure to file by the 20th of every month the monthly general ledger and copies of its bank statements for the preceding month.
 3. Wilma B. Ison, Robert D. Ison, and Elam each waive a formal hearing of all matters herein.
 4. Elam is to be assessed a civil penalty of Two Thousand Five Hundred Dollars (\$2,500) for each violation, which is a total penalty of Seven Thousand Five Hundred Dollars (\$7,500). Staff will recommend to the Commission that the entire civil penalty assessed upon Elam be suspended for a period of 2 years if the following conditions are met; otherwise the entire penalty shall become due and payable.
 - a. That Elam will file a GCA on or before January 30, 2004 and quarterly thereafter under the terms of its tariff, the next GCA to be filed by March 1, 2004;
 - b. That Elam will submit its supplemental accrued interest filing by January 30, 2004 and that Elam will file its general ledger and bank statements, as set out in the Order of October 24, 2003, on or before the 30th of each month; and
 - c. That Elam will have no further violations during the 2-year suspension period.
 5. Wilma B. Ison, individually, is to be assessed a civil penalty, pursuant to KRS 278.990(1), of Two Thousand Five Hundred Dollars (\$2,500) for each of the three violations, which is a total penalty of Seven Thousand Five Hundred Dollars (\$7,500). Two Thousand Dollars (\$2,000) of that amount shall be paid by a cashier's check payable to "Kentucky State Treasurer," and mailed or delivered to the Office of the General Counsel, Public Service Commission of Kentucky, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky, 40602. The balance of Five Thousand Five

Hundred (\$5,500) Dollars will be suspended for a period of 2 years upon the same conditions set out in Number 4(a),(b), and (c) above. Any further violations under KRS 278.990(1) shall cause the suspended penalty of \$5,500 to become due and payable.

6. Robert D. Ison, individually, will be assessed a civil penalty of Five Hundred Dollars (\$500) for each of the three violations, which is a total penalty of One Thousand Five Hundred Dollars (\$1,500). Staff will recommend to the Commission that the entire civil penalty assessed upon Robert D. Ison be suspended for a period of 2 years upon the same conditions set out in Number 4(a), (b), and (c) above. Any further violations under KRS 278.992(1) shall cause the suspended penalty of \$1,500 to become due and payable.

7. Elam, Wilma B. Ison, Robert D. Ison, and Commission Staff agree that the Order of October 24, 2003, as amended by an Order dated November 24, 2003, be further amended to set the time to file Elam's general ledger and bank statements to no later than the 30th of each month.

8. Elam, Wilma B. Ison, Robert D. Ison, and Commission Staff agree that the Commission will state in its Order that before any dividend may be declared or paid by Elam, Elam shall first obtain the approval of the Commission.

9. This Agreement is subject to the acceptance of and approval by the Public Service Commission.

10. If the Public Service Commission fails to accept and approve this Settlement Agreement in its entirety, this proceeding shall go forward and neither the terms of this Settlement Agreement nor any matters raised during settlement negotiations shall be binding on any signatory or be construed against Wilma B. Ison or Robert D. Ison or Elam or Commission Staff.

11. Commission Staff shall recommend to the Public Service Commission that this Settlement Agreement be accepted and approved.

IN WITNESS WHEREOF, Elam, Wilma B. Ison, Robert D. Ison, and Commission Staff have executed this Settlement Agreement on the date first above written.

STAFF OF THE PUBLIC SERVICE
COMMISSION OF KENTUCKY

BY: _____

James R. Goff, Staff Attorney

WILMA B. ISON AND ROBERT D. ISON AND
ELAM UTILITY COMPANY, d/b/a ELAM
UTILITY COMPANY, INC.

Wilma B. Ison

Wilma B. Ison, as President of
Elam Utility Company

Wilma B. Ison

Wilma B. Ison, Individually

Robert D. Ison

Robert D. Ison, Individually